



# **Workflow guidance for Member States to request the coordination and support of ELA for a concerted or joint inspection**

**DECEMBER 2020**

## List of abbreviations

CJIs	Concerted and Joint Inspections
ELA	European Labour Authority
MS	Member State(s)
NLO	National Liaison Officer

## Introduction

According to Article 8(1) of Regulation (EU) 2019/1149, Member States may propose the initiation of concerted and joint inspections. The workflow guidance for MS defines practical steps on how to prepare, implement and follow up effective concerted or joint inspections.

In line with Article 8(4) of Regulation (EU) 2019/1149, the workflow guidance also considers cases where one or more MS decide not to participate in the CJI.

According to Article 8(2) of Regulation (EU) 2019/1149 and for the purposes of this workflow guidance

- Concerted inspections are inspections carried out in two or more MS simultaneously regarding related cases, with each national authority operating in its own territory, and supported, where appropriate, by the staff of the Authority;
- Joint inspections are inspections carried out in MS with the participation of the national authorities of one or more other MS, and supported, where appropriate, by the staff of the Authority.

A concerted or joint inspection should be understood as an activity agreed upon by means of one Agreement between two or more Member States and ELA, irrespective of the number of companies and workplaces inspected, or the number of days of inspection activity. Likewise, the concerned authorities should report on the CJI using one Post-inspection report for the whole activity.

Such CJI can be combined with mutual learning, training activities or other staff exchanges.

The proposed inspection shall be carried out on a voluntary basis, in accordance with the law or practice of the Member State where the inspection takes place. The cooperation of a Member State with ELA shall not affect any existing bilateral/multilateral agreements nor memoranda of understanding concluded by the participating Member States. The proposal shall not entail any legal obligation for the involved parties, other than the ones described in Regulation (EU) 2019/1149. Member States and the Authority shall keep information about envisaged inspections confidential.

## Workflow guidance for MS to request the coordination and support of ELA for a CJI

This workflow guidance establishes the procedure to carry out CJIs.

1. MS prepares basic information about CJI
  - a) MS collects relevant data, including background information on all preliminary actions already taken to address the issue and the results of these actions.
  - b) MS identifies relevant stakeholders (other MS, national or international organisations (such as EU-OSHA, EUROPOL, EUROJUST) including, if relevant, social partners) which should be involved in the inspection and specifies why they should be involved and, if applicable, which actions they should take.
  - c) MS specifies the role of ELA and defines:
    - The support (staff, financial, conceptual, logistical, technical, legal, or support related to translation) required from ELA in order to undertake the inspection.

During the initial steps, ELA provides continuous cooperation support (e.g. facilitating exchange of information and preparatory meetings).

2. MS completes the ELA template case description for inspection:
  - Background on the case,
  - Sector and entity(-ies) to be inspected in each MS,
  - National coordinator of the inspection,
  - Other stakeholders and number of participating persons,
  - Number of companies and mobile workers involved in the inspection,
  - Estimated costs to be paid by ELA and other support.

Each area is specified in more detail in the template.

3. NLO(s) sends official request for support to ELA and notifies concerned MS.
  - a) NLO notifies all involved parties of their MS agreement to participation.
  - b) Case resolved without further action - some cases may be resolved at this level without requiring an inspection.
  - c) Concerned MS do not agree to participate:

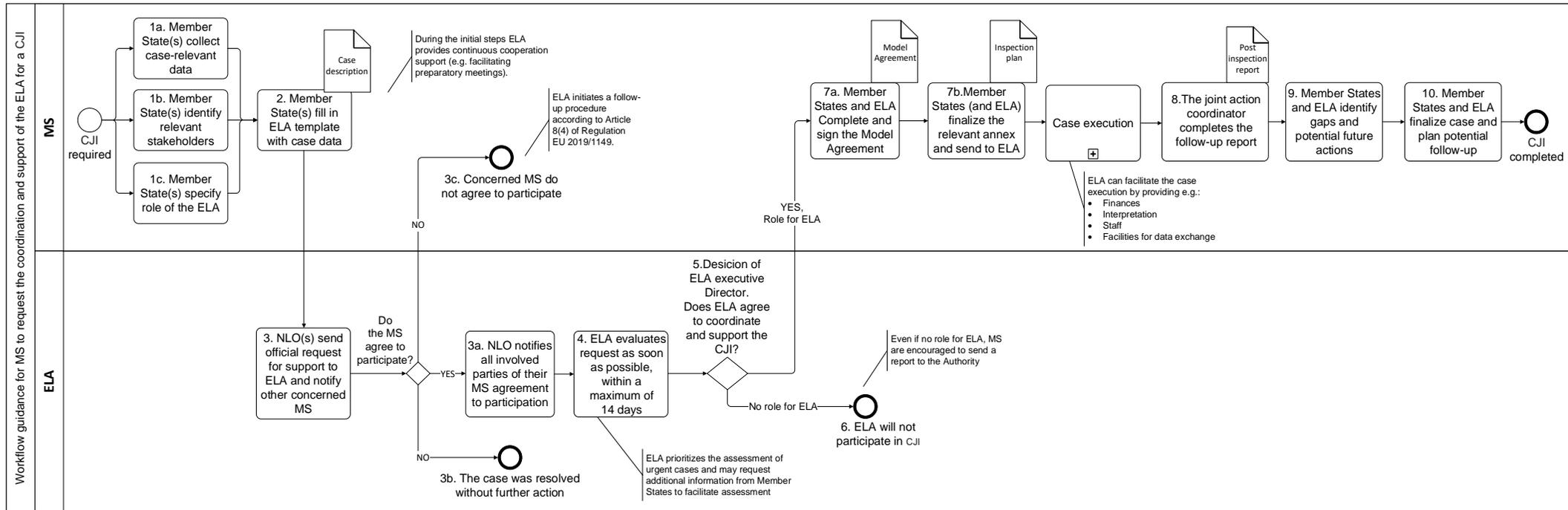
In the event that one or more MS decides not to participate in a concerted or joint inspection, the national authorities of the other MS shall only undertake such an inspection in the participating MS. Member States that decide not to participate shall keep information about such an inspection confidential.

According to Article 8(4) of Regulation (EU) 2019/1149, the Authority shall establish and adopt the modalities to ensure appropriate follow-up where a Member State decides not to participate in a concerted or joint inspection. In such a case:

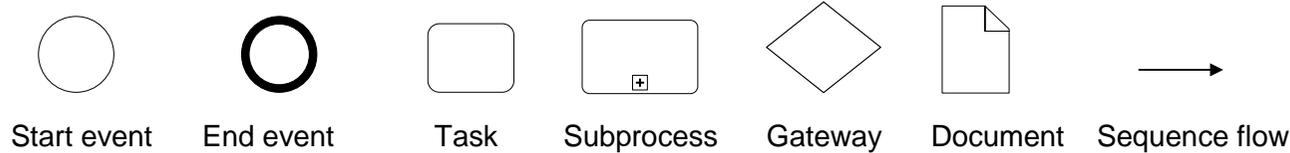
- The Member State concerned shall inform the Authority and the other MS concerned in writing, including by electronic means, without undue delay of the reasons for its decision and about the measures it plans to take to resolve the case (specifying concrete actions and period), if any.
  - Once known, the concerned MS shall inform the Authority and the other MS about the outcomes of the measures they took.
  - The Authority may suggest that a Member State which did not participate in a concerted or joint inspection, undertake its own inspection on a voluntary basis.
4. ELA evaluates a request based on a set of agreed criteria as soon as possible and no later than within 14 days - ELA prioritizes the assessment of urgent cases and may request additional information from MS to facilitate the assessment.
  5. Decision of ELA Executive Director
    - a) No role for ELA - ELA decides not to coordinate and support the CJI. Even if no role for ELA is foreseen, MS are encouraged to send a report to the Authority.

- b) Role for ELA - at the request of one or more MS, the Authority coordinates and supports concerted or joint inspections in areas in the Authority's competence.
- 6. Agreement**
    - a) MS and ELA complete and sign an Agreement to undertake a CJI between the participating Member States, and the Authority. The Agreement shall set out the terms and the conditions for undertaking an inspection in accordance with the law or practice of the MS where the inspection takes place. The Agreement shall not affect any existing bilateral/multilateral agreements, nor a memorandum of understanding concluded by the participating MS.  
MS finalizes the relevant annex and sends to ELA – The inspection plan on the basis of the agreed template.
  - 7. Case execution based on the Inspection Plan – ELA facilitates the execution of CJIs by providing financing, interpretation, staff, facilities for data exchange, conceptual, logistical and technical support, legal expertise, support related to translation, etc.**
  - 8. The joint action coordinator completes the follow-up report - the authority of a MS that carries out a concerted or joint inspection shall report to the Authority on the outcome of the inspection in that MS and on the overall operational running of the concerted or joint inspection within six months of the end of the inspection, for which templates are available.**
  - 9. MS and ELA identify gaps and potential future actions - critical reflection and potential improvement of processes for future inspections.**
  - 10. MS and ELA finalize case and plan potential follow-up - identify necessity for follow-up to inspections based on the findings.**

**Figure 1. Workflow guidance for MS to request the coordination and support of ELA for a CJI**



**Explanatory Notes**



## Getting in touch with the European Labour Authority

By e-mail:

- by e-mail: [EMPL-ELA-INSPECTIONS@ec.europa.eu](mailto:EMPL-ELA-INSPECTIONS@ec.europa.eu)
- Contact: <https://www.ela.europa.eu/contact.html>

## Finding information about ELA

### Online

Information about the European Labour Authority is available on the website: <https://www.ela.europa.eu/index.html>

### EU Publications

You can download or order free and priced EU publications from the EU Bookshop at: <http://bookshop.europa.eu>.

### EU law and related documents

For access to legal information from the EU, including all EU law since 1951 in all the official language versions, go to EUR-Lex at: <http://eur-lex.europa.eu>

